The clause for carrying out the proposed provision as to Barristers and Solicitors might run as follows :—

If Supreme Court think rule to strike Barrister or Solicitor off the roll should be made absolute, or doubts, case to be sent to Court of Appeal.

(1.) "Whenever a rule *nisi* has been granted by the Supreme Court, calling upon a "Barrister or Solicitor on the rolls thereof to shew cause why he should not be struck "off the Rolls, if, upon cause being shewn, the said Supreme Court shall be of opinion that "such rule ought to be made absolute, or shall entertain any doubt whether the rule "ought to be discharged or made absolute, such Court shall reserve the case for the "consideration of the Court of Appeal at its next sitting, and shall cause such rule and "all affidavits made in support of or against such rule, and all other proceedings referred "to in such rule to be forthwith transmitted to the Registrar of such Court of Appeal; "and the Court of Appeal shall, at its next sitting, whether the party or his counsel "appear in support of or against such rule, or not, decide thereupon, and order such rule "to be made absolute, or to be discharged, as it shall think fit.

Nothing to prevent Supreme Court from discharging the rule.

"Provided that nothing herein contained shall prevent the Supreme Court from "discharging the rule *nisi* hereinbefore mentioned, on cause being shown before it, if it "should think fit.

"Provided also, that nothing herein contained shall prevent the Supreme Court from "directing and ordering, but such Court may direct and order, if it shall think fit, on "cause being shown against such rule, that the Barrister or Solicitor against whom it "has been granted shall be suspended from acting as a Barrister or Solicitor, and "enjoying all or any of the privileges of such Barrister or Solicitor until the decision "of the Court of Appeal upon such rule."

NOTE.—By these provisions, although the power of striking off the rolls is reserved for the Judges acting together, power is still preserved to the Supreme Court, on the one hand, to dispose of a frivolous and insufficient charge, and on the other, to prevent a Barrister or Solicitor, against whom a strong case is made, from going on to do further mischief in the interval between the shewing cause and the decision by the Court of Appeal.

V.—ERROR.

41. We come now to consider the important subject of Error.

Semble. No power to bring Error in New Zealand previously to Supreme Court Act, 1860.

Inasmuch as by the English law in force on the 14th January, 1840, the Writ of Error, which was then the necessary commencement of proceedings in Error, was a writ which issued from the Common Law side of the Court of Chancery; and as the Supreme Court of New Zealand was not, by the Supreme Court Ordinance of 1844, or by any other Ordinance or Act of the Colony, invested, in terms, with the common law jurisdiction of the Court of Chancery it seems to us that, till the recent Supreme Court Act, 1860, came into operation, the suitors of the Supreme Court had no power to bring Error, strictly speaking ; although it would appear that "Error in Law" was contemplated as a ground of appeal to the Court of Appeals established by the Ordinance, Sess. VII., No. 3, since it is provided therein (sec. 3) that upon an appeal from the judgment of the Supreme Court on the verdict of a Jury, the Court shall not enquire into the same except for "Error of Law" apparent on the record.

Expedient to give power.

42. At all events, the question whether the law of England as to Error, in existence on the 14th January, 1840, was part of the law of New Zealand before the last Supreme Court Act, as having been *then* "applicable to the circumstances of the Colony," under "The English Laws Act, 1858," although no Court of Error was then in existence, and the Supreme Court probably had not the power to issue a Writ of Error, was too arguable to be safely left open. We cannot hesitate to affirm that in a system of jurisprudence of which by far the greatest part, or nearly the whole, is borrowed from that of England, so important a branch as the law of Error ought to be incorporated with it. And this observation applies equally to criminal and civil cases.

But inasmuch as we propose to treat civil cases first, we suggest that it will be proper to begin this part of the Bill by enacting or declaring to the following effect :—

Proposed clause.

1. "Error shall lie to the Court of Appeal upon any judgment of the Supreme Court (*a*), "whether given in the ordinary course of an action, or on a special case (*b*), and upon any "award of a trial *de novo* by the Supreme Court or Court of Appeal upon matter appearing "on the record (*c*), in respect of any such ground as Error would have lain from any of the "Superior Courts of Common Law at Westminster (*d*), to any Court of Error in England, "on the 14th January, A.D., 1840 (*e*.)

For what, Error will lie.

Notes to clause.

NOTES, (*a*.). As there is an appeal from the District Court to the Supreme Court, and we propose to give certain powers for removing questions from the District Court to the Appeal Court, it seems undesirable to give the power of bringing Error direct from the District Court to the Appeal Court.

(*b*.) It seems desirable to introduce these words, as Error did not lie in England on a special case stated without pleadings, prior to the "Common Law Procedure Act."

(*c*.) This is taken from the "Common Law Procedure Act 1854," sec. 43.

(*d*.) Although Error lies in England from all Courts of Record, this definition will be found practically sufficient, and may save some embarassment.

(*e*.) Where it is necessary to legislate with reference to English Law generally, it seems desirable to keep to the time fixed by "The English Laws Act, 1858."